U.S. Department of Justice

Immigration and Naturalization Service

B7

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

DEC 21 2000

File: EAC 99 178 52006 Office: Vermont Service Center Date:

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

Public Copy

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

IN BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On the Form I-290B Notice of Appeal, filed on March 13, 2000, counsel indicated that a brief would be forthcoming within thirty days. As of the present date, nine months later, no subsequent submission has been incorporated into the record of proceeding; all other documentation in the record predates the issuance of the notice of decision.

The statement on the appeal form reads simply:

> The Center Director did not consider a significant piece of evidence submitted, namely letter of [redacted] (see attached). We assumed [redacted] reputation did not need explanation.
>
> The evidence submitted demonstrates my client's outstanding qualifications.

[redacted] is, indeed, internationally known as a top jazz musician, who holds a prestigious post as artistic director of Jazz at [redacted]. The attachment referenced above is a copy of a previously-submitted letter from Mr [redacted] In that letter, Mr. [redacted] states that the petitioner "possesses a unique spirit and is a virtuoso extraordinaire on the violin," but he does not indicate that the petitioner is nationally or internationally acclaimed as a musician. While praise from an artist of [redacted] caliber is indeed a rare privilege, [redacted] opinion of the petitioner's abilities does not necessarily extrapolate into widespread acclaim or recognition. Indeed, [redacted] own reputation and near-universal recognition serves to demonstrate the heights to which one can rise in jazz music, and it is those heights which represent "the very top of the field."

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Counsel's sole argument on appeal is that the director "did not consider . . . [the] letter of [redacted]." For the reasons stated above, [redacted] letter does not address, much less overcome, the grounds for denial, and therefore the director's failure to make specific reference to this letter in the notice of decision does not constitute an error of law or fact.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.